

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

IN RE:) BANKRUPTCY CASE
)
CHRISTY A. THOMAS,) NO.: 22-09817
)
Debtor.) CHAPTER 11
)
) JUDGE: DEBORAH L. THORNE
)

NOTICE OF MOTION

TO: See attached list

PLEASE TAKE NOTICE that on May 18, 2023, at 09:30 am, I will appear before the Honorable Deborah L. Thorne, or any judge sitting in that judge's place, **either** in courtroom 682 at 219 S. Dearborn St., Chicago, IL 60604 **or** electronically as described below and present the motion of JPMorgan Chase Bank National Association for Relief from the Automatic Stay In-Rem, a copy of which is attached.

All parties in interest, including the movant, may appear for the presentment of the motion either in person or electronically using Zoom for Government.

You may appear electronically by video or by telephone.

To appear by video, use this link: <https://www.zoomgov.com/>. Then enter the meeting ID and passcode.

To appear by telephone, call Zoom for Government at 1-669-254-5252
or 1-646- 828-7666. Then enter the meeting ID and passcode.

Meeting ID and passcode. The meeting ID for this hearing is **160 9362 1728** -no passcode required. The meeting ID and further information can also be found on Judge Thorne's page on the court's web site.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without calling it.

I, the undersigned Attorney, certify that I served a copy of this notice and the attached motion on each entity shown on the attached list at the address shown and by the method indicated on the list on May 11, 2023, at 5:00p.m.

McCalla Raymer Leibert Pierce, LLC

/s/ Toni Townsend

Toni Townsend
ARDC#3289370
1 N. Dearborn Suite 1200
Chicago, IL 60602
(312) 346-9088

This is an attempt to collect a debt and any information obtained will be used for that purpose.

NOTICE OF MOTION ADDRESSES

To Debtor:
Christy A. Thomas
61 George St
Grayslake, IL 60030

Served via U.S. Mail

To Debtor's Attorney:
J Kevin Benjamin
Benjamin Legal Services PLC
1016 W. Jackson Boulevard
Chicago, IL

by Electronic Notice through ECF

To Creditors:
See attached List of Creditors

McCalla Raymer Leibert Pierce, LLC
Attorney For: Creditor
1 N. Dearborn Suite 1200
Chicago, IL 60602
(312) 346-9088

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:	§	
	§	Judge: Deborah L. Thorne
Christy A. Thomas,	§	Case No.: 22-09817
	§	Chapter: 11
	§	
Debtor.	§	

MOTION TO MODIFY AUTOMATIC STAY *IN REM*

NOW COMES JPMorgan Chase Bank National Association (hereinafter “Chase”), by and through its attorneys, McCalla Raymer Leibert Pierce, LLC, requesting that the Automatic Stay heretofore entered on the property located at 61 George Street, Grayslake, Illinois, be modified *in rem*, stating as follows:

1. On August 29, 2022, the above captioned petition was filed under Chapter 11 of the Bankruptcy Code.
2. Chase services the first mortgage lien on the property located at 61 George Street, Grayslake, Illinois.
3. Pursuant to 11 U.S.C. §362(d)(4), this Court may modify the Automatic Stay *in rem* if the Debtor has engaged in a “scheme to delay, hinder, or defraud creditors.”
4. The Debtor and borrower, Dean Thomas, have engaged in a tag-team scheme of filing bankruptcy on the eve of a foreclosure sale to thwart Chase from pursuing its state court remedies.
5. On March 28, 2008 the Debtor executed a Mortgage secured by the property located at 61 George Street, Grayslake, IL but she did not sign the Note.

6. Dean Thomas executed the Note and Mortgage secured by this property in the original amount of \$902,000.00.
7. The first mortgage payment was due on June 1, 2008.
8. The Debtor(s) only made fifteen (15) mortgage payments then defaulted.
9. On July 02, 2010, Chase filed its foreclosure complaint in the Circuit court for the Nineteenth Judicial District, case 10CH3689. At that time the account was due for the October 2009 payment and all those due thereafter.
10. The Debtor filed numerous pleadings in state court, some frivolous, some duplicative, and all that stalled the foreclosure case for nearly six years.
11. Eventually, judgment was entered in case 10CH3689 on March 09, 2016.
12. The statutory period of redemption expired June 09, 2016. See attached Exhibit A
13. The first judicial sale was scheduled for July 26, 2016.
14. On or about July 13, 2016, the scheduled sale was cancelled due to the Debtors' request for loss mitigation review. The Debtors were offered a loan modification by Chase but failed to tender the required trial payments and the loan modification was ultimately denied.
15. A judicial sale was rescheduled for March 07, 2017 and the Debtors subsequent Motion to Stay Sale was stricken by the Court in the Nineteenth Judicial District Court.

FIRST BANKRUPTCY

16. However, on the morning of the scheduled sale, Dean Thomas filed the first bankruptcy petition in the "scheme to delay, hinder, or defraud." 11 U.S.C. §362(d)(4)
17. Dean Thomas filed Chapter 13 bankruptcy case 17-06864 on March 07, 2017.

18. Yet, the case was dismissed on September 6, 2017 on the Trustee's Motion to Dismiss for Ineligibility.
19. Even though the Debtor was ineligible to be a Chapter 13 Debtor on the petition date, the Debtor enjoyed the protection of the automatic stay for nearly six months, while Chase was unduly stayed.
20. Another foreclosure sale was scheduled for October 03, 2017 but was thwarted by Dean Thomas' second bankruptcy case filed on the eve of sale.

SECOND BANKRUPTCY

21. Dean Thomas filed Chapter 11 bankruptcy case 17-29541 at 8:59 p.m, on October 2, 2017.
22. A year later, Debtor filed a plan on October 10, 2018 that proposed to bifurcate the mortgage on the residential property in direct violation of the 'anti-modification' provision of 11 U.S.C. §1123(b)(5).
23. The Debtor's Plan was never confirmed and ultimately the case was dismissed on April 15, 2019 pursuant to 11 U.S.C. §1112(b)(4)(i), as the Debtor failed to pay post-petition property taxes.
24. Dean Thomas appealed the dismissal of the case but withdrew the appeal after his Motion for Stay Pending Appeal was denied. See attached Exhibit B
25. Neither Judge Cox in the bankruptcy case, nor Judge Kocoras in the appeal gave credence to the Debtor's assertion that he was not required to reimburse Chase for the post-petition taxes that were advanced on his behalf and weighed the equities in favor of Chase.

THIRD BANKRUPTCY PETITION

26. After Judge Kocoras denied the Debtor's Motion for Stay Pending Appeal, in case 19CV2777, the judicial sale of the property was rescheduled to July 09, 2019, but, true to form, the Debtor and her husband filed Chapter 11 case 19-19137 at 10:50 pm, the night before sale.
27. Given that Dean Thomas had a case pending in the previous year the automatic stay would have terminated after 30 days pursuant to 11 U.S.C. §362(c) but with the addition of Christy Thomas, the stay was complete.
28. The Debtors filed a plan on October 30, 2019, which sought to cramdown the principal residence in violation of the anti-modification provision in §1123(b)(5).
29. On November 05, 2019, Judge Schmetterer granted Chase's Motion for *In Rem* relief, finding that the Debtors had engaged in a 'scheme to delay, hinder or defraud' Chase.
30. The Debtor filed a Motion to Reconsider the *in rem* order, but it was denied on December 18, 2019.
31. The Debtors subsequently filed an appeal of the Order denying Reconsideration of the *in rem* order. Once again, the Debtors abandoned the appeal once their Motion for Stay pending appeal was denied in the District Court. See attached Exhibit C
32. Due to the global pandemic in March 2020, a moratorium was instituted on foreclosure sales.
33. Consequently, the two-year insulation from bankruptcy stays secured by the *in rem* order expired.
34. On June 30, 2022, the federal moratorium on foreclosure sales terminated and Chase reset the foreclosure sale for July 19, 2022 but the Debtor and her husband managed to

delay that sale date with a hardship affidavit and convinced the state court to delay the sale for a month, for yet another loss mitigation review. The sale date was reset to August 30, 2022.

FOURTH BANKRUPTCY

35. Unsurprisingly, the Debtor filed the instant case on August 29, 2022. The Debtor filed a plan mirroring the plan in the prior case that proposed to bifurcate Chase's mortgage into secured and unsecured portions.
36. The issue of whether the residential property could be crammed down was fully briefed, and this Court ruled on May 10, 2023 that Chase's mortgage is protected by the anti-modification provision and thus the Plan was unconfirmable as proposed.
37. Chase has been compelled to cancel at least five foreclosure sales due to the Debtors tag team bankruptcy filings on the eve of sale.
38. Additionally, the Debtors are still behind on mortgage payments by more than a decade and have amassed an unconscionable amount of arrears totaling \$958,897.94.
39. The Debtors have engaged in a "scheme to delay, hinder, or defraud" Chase by abusing the judicial process in state court, bankruptcy court, and appellate court. 11 U.S.C. §362(d)(4)
40. Moreover, the Debtors have unscrupulously lived for free in the property for nearly 14 years, while Chase was forced to pay their property taxes from its own pocket.
41. Therefore, Chase seeks *in rem* relief for protection from further bankruptcy petition pursuant to 11 U.S.C. §362(d)(4).

WHEREFORE JPMorgan Chase Bank National Associations prays for an Order granting *in rem* relief and for such further relief as this Honorable Court deems just.

McCalla Raymer Leibert Pierce, LLC

By: /s/ Toni Townsend

Toni Townsend

Phone: (312) 476-5174

Email: Toni.Townsend@McCalla.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on 05/11/2023 a true and correct copy of the foregoing was served by U.S. Mail, First Class to:

Christy A. Thomas
61 George St
Grayslake, IL 60030-1536

and those parties receiving CM/ECF service

J Kevin Benjamin, Esq.
Benjamin Legal Services PLC
1016 W. Jackson Boulevard
Chicago, IL

Patrick S. Layng
Office of the U.S. Trustee, Region 11
219 S. Dearborn Street, Room 873
Chicago, IL 60604

By: /s/ Toni Townsend
Toni Townsend

Fill in this information to identify your case:

Debtor 1 Christy A. Thomas
First Name Middle Name Last Name

Debtor 2
(Spouse, if filing) _____
First Name Middle Name Last Name

United States Bankruptcy Court for the: Northern District of Illinois

Case number _____
(if known)

☐ Check if this is an amended filing

Official Form 104

For Individual Chapter 11 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Against You and Are Not Insiders

12/15

If you are a individual filing for bankruptcy under Chapter 11, you must fill out this form. If you are filing under Chapter 7, Chapter 12, or Chapter 13, do not fill out this form. Do not include claims by anyone who is an *insider*. Insiders include your relatives; any general partners; relatives of any general partners; partnerships of which you are a general partner; corporations of which you are an officer, director, person in control, or owner of 20 percent or more of their voting securities; and any managing agent, including one for a business you operate as a sole proprietor. 11 U.S.C. § 101. Also, do not include claims by secured creditors unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 20 largest unsecured claims.

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information.

Part 1: List the 20 Unsecured Claims in Order from Largest to Smallest. Do Not Include Claims by Insiders.

1	What is the nature of the claim? _____	\$366,941.35
Chase	As of the date you file, the claim is: Check all that apply.	
Creditor's Name	<input checked="" type="checkbox"/> Contingent	
700 Kansas Lane LA4-6633	<input checked="" type="checkbox"/> Unliquidated	
Number Street	<input checked="" type="checkbox"/> Disputed	
Monroe, LA 71203	<input type="checkbox"/> None of the above apply	
City State Zip Code	Does the creditor have a lien on your property? Secured	
Contact	<input type="checkbox"/> No	
Contact phone	<input checked="" type="checkbox"/> Yes.	
	Total claim (secured and unsecured):	\$901,941.35
	Value of security:	-\$535,000.00
	Unsecured Claim:	\$366,941.35

Debtor 1 **Christy** **A.** **Thomas** Case number (if known) _____
First Name Middle Name Last Name

		Unsecured claim
2	What is the nature of the claim? _____	\$63,660.66
CoreLogic Tax Services, LLC Creditor's Name	As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input checked="" type="checkbox"/> Disputed <input type="checkbox"/> None of the above apply	
2500 Westfield Dr Number Street		
Elgin, IL 60124-7700 City State Zip Code		
Contact	Does the creditor have a lien on your property? Secured <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes.	
Contact phone	Total claim (secured and unsecured): <u>\$63,660.66</u> Value of security: <u>-\$0.00</u> Unsecured Claim: <u>\$63,660.66</u>	
3	What is the nature of the claim? _____	\$9,297.40
CoreLogic Tax Services, LLC Creditor's Name	As of the date you file, the claim is: Check all that apply. <input checked="" type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input checked="" type="checkbox"/> Disputed <input type="checkbox"/> None of the above apply	
2500 Westfield Dr Number Street		
Elgin, IL 60124-7700 City State Zip Code		
Contact	Does the creditor have a lien on your property? Secured <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes.	
Contact phone	Total claim (secured and unsecured): <u>\$9,297.40</u> Value of security: <u>-\$0.00</u> Unsecured Claim: <u>\$9,297.40</u>	
4	What is the nature of the claim? <u>CreditCard</u>	\$9,266.00
DISCOVER BANK Creditor's Name	As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input checked="" type="checkbox"/> None of the above apply	
PO BOX 30939 Number Street		
SALT LAKE CITY, UT 84130 City State Zip Code		
Contact	Does the creditor have a lien on your property? Unsecured <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes.	
Contact phone	Total claim (secured and unsecured): _____ Value of security: _____ Unsecured Claim: _____	

Debtor 1 Christy A. Thomas Case number (if known) _____
 First Name Middle Name Last Name

			Unsecured claim
5	What is the nature of the claim? <u>Student loans</u>		<u>\$3,642.20</u>
	NELNET Creditor's Name 13907 S. MINUTEMAN DR. SUITE250 Number Street DRAPER, UT 84020 City State Zip Code Contact Contact phone		
	As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input checked="" type="checkbox"/> None of the above apply		
	Does the creditor have a lien on your property? Unsecured <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes.		
	Total claim (secured and unsecured): _____ Value of security: - _____ Unsecured Claim: _____		
6	What is the nature of the claim? <u>Student loans</u>		<u>\$3,642.00</u>
	DEPT OF EDUCATION/NELN Creditor's Name 121 S 13TH ST Number Street LINCOLN, NE 68508 City State Zip Code Contact Contact phone		
	As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input checked="" type="checkbox"/> None of the above apply		
	Does the creditor have a lien on your property? Unsecured <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes.		
	Total claim (secured and unsecured): _____ Value of security: - _____ Unsecured Claim: _____		
7	What is the nature of the claim? <u>CreditCard</u>		<u>\$1,517.00</u>
	CAPITAL ONE BANK USA Creditor's Name PO BOX 31293 Number Street SALT LAKE CITY, UT 84131 City State Zip Code Contact Contact phone		
	As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input checked="" type="checkbox"/> None of the above apply		
	Does the creditor have a lien on your property? Unsecured <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes.		
	Total claim (secured and unsecured): _____ Value of security: - _____ Unsecured Claim: _____		

Debtor 1 Christy A. Thomas Case number (if known) _____
First Name Middle Name Last Name

		Unsecured claim
8	<p>What is the nature of the claim? <u>credit card</u></p> <p>CAPITAL ONE Creditor's Name</p> <p>PO BOX 6492 Number Street</p> <p>CAROL STREAM, IL 60197-6492 City State Zip Code</p> <p>Contact _____</p> <p>Contact phone _____</p> <p>As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input checked="" type="checkbox"/> None of the above apply</p> <p>Does the creditor have a lien on your property? Unsecured <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes.</p> <p>Total claim (secured and unsecured): _____ Value of security: - _____ Unsecured Claim: _____</p>	\$567.26
9	<p>What is the nature of the claim? <u>credit card</u></p> <p>CAPITAL ONE Creditor's Name</p> <p>PO BOX 6492 Number Street</p> <p>CAROL STREAM, IL 60197-6492 City State Zip Code</p> <p>Contact _____</p> <p>Contact phone _____</p> <p>As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input checked="" type="checkbox"/> None of the above apply</p> <p>Does the creditor have a lien on your property? Unsecured <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes.</p> <p>Total claim (secured and unsecured): _____ Value of security: - _____ Unsecured Claim: _____</p>	\$524.24
10	<p>What is the nature of the claim? <u>FactoringCompanyAccount</u></p> <p>LVNV FUNDING LLC Creditor's Name</p> <p>PO BOX 1269 Number Street</p> <p>GREENVILLE, SC 29602 City State Zip Code</p> <p>Contact _____</p> <p>Contact phone _____</p> <p>As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input checked="" type="checkbox"/> Disputed <input type="checkbox"/> None of the above apply</p> <p>Does the creditor have a lien on your property? Unsecured <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes.</p> <p>Total claim (secured and unsecured): _____ Value of security: - _____ Unsecured Claim: _____</p>	\$524.00

Debtor 1 Christy A. Thomas Case number (if known) _____
 First Name Middle Name Last Name

			Unsecured claim
11	What is the nature of the claim? <u>FactoringCompanyAccount</u>		\$458.00
	LVNV FUNDING LLC Creditor's Name <hr/> PO BOX 1269 Number Street <hr/> GREENVILLE, SC 29602 City State Zip Code <hr/> Contact <hr/> Contact phone <hr/>	As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input checked="" type="checkbox"/> Disputed <input type="checkbox"/> None of the above apply Does the creditor have a lien on your property? Unsecured <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Total claim (secured and unsecured): _____ Value of security: - _____ Unsecured Claim: _____	
12	What is the nature of the claim? <u>FlexibleSpendingCreditCard</u>		\$88.00
	BARCLAYS BANK DELAWARE Creditor's Name <hr/> PO BOX 8803 Number Street <hr/> WILMINGTON, DE 19899 City State Zip Code <hr/> Contact <hr/> Contact phone <hr/>	As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input checked="" type="checkbox"/> None of the above apply Does the creditor have a lien on your property? Unsecured <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Total claim (secured and unsecured): _____ Value of security: - _____ Unsecured Claim: _____	
13	What is the nature of the claim? _____		
	Creditor's Name <hr/> Number Street <hr/> City State Zip Code <hr/> Contact <hr/> Contact phone <hr/>	As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> None of the above apply Does the creditor have a lien on your property? <input type="checkbox"/> No <input type="checkbox"/> Yes. Total claim (secured and unsecured): _____ Value of security: - _____ Unsecured Claim: _____	